

GIDEON KRACOV

Attorney at Law

801 South Grand Avenue
11th Floor
Los Angeles, California 90017

(213) 629-2071
Fax: (213) 623-7755

gk@gideonlaw.net
www.gideonlaw.net

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VIA HAND DELIVERY, E-MAIL AND U.S. MAIL

David W. Louie, Chair
LOS ANGELES COUNTY DEPARTMENT OF REGIONAL PLANNING
ATTN: Airport Land Use Commission (ALUC)
320 West Temple Street
13th Floor
Los Angeles, CA 90012

RE: Impasse Appeal by Cities of Culver City and Ontario, and County of San Bernardino – Project No. R2013-00396-(2); Aviation Case No. 201300001 – General Plan and Specific Plan Amendment Project (City of Los Angeles).

Dear Chairperson Louie and Airport Land Use Commissioners,

This letter is submitted on behalf of SEIU United Service Workers West (“USWW”) and its members living and working in the City of Los Angeles to support the Impasse Appeal filed by the Cities of Culver City and Ontario and County of San Bernardino concerning the Los Angeles International Airport (“LAX”) Specific Plan Amendment Study Project (“SPAS”), Project No. R2013-00396-(2), Aviation Case No. 201300001, on May 20, 2013 (“Appeal”).

USWW supports the Impasse Appeal and asks that the Los Angeles Airport Land Use Commission (“ALUC”) follow the staff recommendation and uphold the Impasse Appeal. USWW believes that the Los Angeles City Council’s April 30, 2013 decision to certify the Final Environmental Impact Report (“FEIR”) for the SPAS and adopt the Staff-Recommended Alternative is inconsistent with the State Aeronautics Act, Cal. Pub. Util. Code § 21001 *et seq.*, as Los Angeles World Airports (“LAWA”) failed to submit the entirety of the SPAS project, most notably the North Airfield Improvements, for a consistency determination from ALUC. Moreover, USWW believes that SPAS is inconsistent with the Los Angeles County Airport Land Use Compatibility Plan (“ALUCP”).

I. BACKGROUND ON SEIU UNITED SERVICE WORKERS WEST.

USWW, with over 40,000 members statewide and 2,000 members working at LAX, will be directly affected by the traffic, air pollution and other impacts of the proposed Project.

USWW has numerous members who live and work in the City and County of Los Angeles. USWW members enjoy the natural environment of the Los Angeles area. These members will be directly affected by



traffic, air pollution and other impacts that will be generated by the proposed Project.

USWW advocates for programs and policies that promote good jobs and a healthy natural working environment in order to protect the health and safety of workers and their families. An important part of the USWW's ongoing advocacy involves participating in and, where appropriate, challenging projects that would result in harmful environmental effects, or the violation of environmental laws, to the detriment of the interests of USWW's members. Workers often suffer environmental impacts that are more severe than the general population.

II. LAWA FAILED TO SUBMIT TO THE NORTH AIRFIELD IMPROVEMENTS FOR ALUC REVIEW.

ALUC is required "to review the plans, regulations and other actions of local agencies and airport operators." Cal. Pub. Util. Code § 21674(d). Pursuant to Sections 21674(d), 21676(b), 21672(c), 21661.5, 21664.5(a), and 21664.5(b) of the California Public Utilities Code, ALUC has the responsibility to review all changes to airport master plans, specific plans, general plan amendments and zoning ordinances for consistency with the adopted ALUCP before final action is taken by the local agency.

However, ALUC never reviewed the North Airfield Improvements before Los Angeles City Council approved them as part of SPAS on April 30, 2013. This was because LAWA failed to submit the North Airfield Improvements to ALUC, despite the fact that the North Airfield Improvements amend the LAX Master Plan, and may also require additional changes to specific plans, general plans, and zoning ordinances.

LAWA claims that the North Airfield Improvements do not require ALUC review as they are at a merely preliminary stage. However, LAWA's application to ALUC includes all general plan amendments required by the SPAS Staff-Recommended Alternative, with the exception of the North Airfield Improvements, including demolition and replacement of Terminals 1–3, roadway reconfigurations, and the construction of a people mover and ground transportation center. It is not clear why these SPAS project elements require ALUC consideration, but the North Airfield Improvements do not, especially given that the North Airfield Improvements and other SPAS project elements require the same state and federal approvals and that all SPAS project elements were approved as one package by the Los Angeles City Council.

Moreover, the plans approved by the Los Angeles City Council do not appear preliminary in nature. The Staff Recommended Alternative for the North Airfield Improvements includes relocation of Runway 6L/24R 260 feet north, construction of a centerline taxiway, and easterly extension of Runway 6R/24L. The SPAS considered a wide range of alternatives to this plan, including alternatives involving various degrees of runway movement, extension, and other airfield improvements. The Los Angeles City Council's approval of the SPAS and adoption of the Staff Recommended Alternative is sufficiently definite to foreclose consideration of other alternatives, and therefore should have been submitted to ALUC for review prior to approval.

a. ALUC Is Required To Review Any And All Changes To The Airport Master Plan.

The LAX SPAS Project amends the LAX Master Plan, requiring ALUC to make a consistency determination on the entirety of the project prior to final approval. California Public Utilities Code Section 21676(c) states that “[e]ach public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer *any proposed changes* to the airport land use commission.” (Emphasis added).

LAWA claims that SPAS is not a modification to the airport master plan. However, an Airport Master Plan, or any update or revision to it as defined by the Federal Aviation Agency (“FAA”), does not expressly require that it be labeled with the term “Master Plan.” An Airport Master Plan “may include a variety of supporting studies . . .” Federal Aviation Administration, Change 1 to AIRPORT Plan, Advisory Circular No. 150/5070-6B 5 (May 1, 2007) (hereinafter *FAA Advisory Circular 150/5070-6B*). LAWA cannot evade ALUC scrutiny simply by conveniently relabeling proposed changes at LAX as mere specific plan amendments.

Moreover, the SPAS FEIR expressly states that its purpose is to update the LAX Master Plan, stating that the “LAX SPAS Report . . . documented the planning process used to identify . . . potential alternative designs, technologies, and configurations for the LAX Master Plan Program . . .” *FEIR* at 1-1.

LAWA argues that SPAS is not a part of the Airport Master Plan due to the preliminary nature of the study, characterizing SPAS as merely identifying and evaluating “potential alternative designs, technologies, and configurations for the LAX Master Plan.” *FEIR* at 1-1. However, an Airport Master Plan is required to include “short-, medium-, and long-term plans for airport development,” as well as “[i]dentify options to meet projected facility requirements and *alternative configurations* for each major component.” *FAA Advisory Circular 150/5070-6B* at 5–6.

b. Individual Portions Of SPAS Are Not Required To Undergo Additional Project-Level Environmental Analysis On The Same Level As The SPAS FEIR.

LAWA claims that ALUC review of the North Airfield Improvements is not required at this time since additional “project-level review under CEQA . . . will require LAWA to consider alternatives” to the Staff Recommended Alternative that was adopted by the Los Angeles City Council on April 30, 2013. Letter from Gina Marie Lindsey, Executive Director of Los Angeles World Airports to David W. Louie, Chair of the Los Angeles Airport Land Use Commission 3 (Aug. 28, 2013). However, without any firm agreement between ALUC and LAWA, no additional environmental review on the proposed North Runway Improvements is required. Moreover, even if LAWA did conduct additional environmental review, it would not have to conduct the same level of analysis as required of the SPAS FEIR.

After preparation of and certification of a program EIR, supplemental analysis is only required to analyze additional impacts that “were not examined in the program EIR . . .” 14 Cal. Code Regs. § 15168(c)(1). LAWA is neither required as part of the process of preparing and certifying a program EIR to

conduct full-blown environmental analysis on the individual projects reviewed in the SPAS FEIR nor to revisit alternatives that *it already rejected in adopting the Staff Recommended Alternative*.

c. **ALUC's March 27, 2013 Consistency Determination Could Bar Additional Review Of The SPAS North Airfield Improvements.**

At the March 27, 2013 ALUC hearing on the LAX SPAS, ALUC staff and County Counsel advised ALUC that SPAS projects excluded from the March 27, 2013 Consistency Determination, such as the proposed North Airfield Improvements, would be subject to further ALUC review at a future date.

However, since ALUC already has considered the LAX SPAS, California state law could bar additional review of the SPAS North Airfield project. California Public Utilities Code Section 21676.5(b) states that:

Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency *shall not be subject to further commission review*, unless the commission and the local agency agree that the individual projects shall be reviewed by the commission. (Emphasis added).

It is unclear whether there is an agreement between LAWA and ALUC that the North Airfield Improvements will be heard at a later date. Any such agreement can only be approved with an opportunity for the public to comment. The lack of clarity is troubling. Rejecting this Appeal could deprive ALUC and the public opportunities to review and comment upon the consistency of major projects such as the North Airfield Improvements with the ALUCP.

III. **THE LAX SPAS PROJECT IS INCONSISTENT WITH THE AIRPORT LAND USE COMPATIBILITY PLAN.**

The SPAS Staff-Recommended Alternative, which was adopted by Los Angeles City Council on April 30, 2013, commits LAWA to a set of North Airfield Improvements, including relocation of Runway 6L/24R 260 feet north, construction of a centerline taxiway, and easterly extension of Runway 6R/24L. The proposed North Airfield Improvements require major changes to the runway protection zones in the Westchester Central Business District along Sepulveda Boulevard inconsistent with the ALUCP.

These changes should have been submitted alongside the other changes already reviewed in ALUC's original March 27, 2013 consistency determination. There has been no explanation from LAWA as to why some of the individual improvement projects studied in the SPAS are at such a definite stage as to require ALUC approval while others, such as the North Airfield Improvements, do not.

While LAWA continues, despite ALUC's staff requests for clarification, to draw a veil over its justification for withholding the North Airfield Improvements from its application, it is clear that the North Airfield Improvements are not consistent with the ALUCP, as an almost identical proposal was declared inconsistent in 2004 as part of the LAX Master Plan.

a. **The North Airfield Improvements Are Inconsistent With The ALUCP And Federal Regulations As Proposed Due To Safety Concerns Arising From Incompatible Land Uses Within The New Proposed Runway Protection Zone.**

The North Airfield Improvements, which calls for the relocation of Runway 6L/24R 260 feet northward, “shift[s] the associated [Runway Protection Zone (“RPZ”)] northward by that same amount . . . extend[ing] over existing developed uses near the east end of the runway that are not currently within the existing RPZ.” *FEIR* at 2-111. This shift will add at least 40 residential and commercial land uses to the RPZ, *id.* at 2-117 tbl. SRA-2.3.7.2-2, the presence of which are “considered incompatible with FAA design recommendations that RPZ areas be clear of all obstructions and occupied uses.” *Id.* at 2-117.

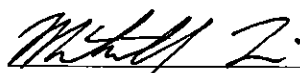
The proposed RPZ is inconsistent with the ALUCP. Section III of the ALUCP describes the RPZ as “an area at ground level that provides for the *unobstructed* passage of landing aircraft through the above airspace . . . [and as] the most critical safety area under the [flight] approach path,” and requires that the area “be kept *free of all obstructions . . . [as well as] congregations of people.*” *ALUCP* at 9 (emphasis added). FAA regulations similarly express a preference for keeping an RPZ “clear . . . of all above-ground objects. . . [or] [w]here . . . impracticable . . . a[t] a minimum . . . maintain the RPZ clear of all facilities supporting incompatible activities.” Federal Aviation Administration, Airport Design, AC 150/5300-13A 70 (2012). Yet, the new proposed RPZ is replete with multiple incompatible land uses involving obstructions and congregations of people, including offices, sales, services, and parking. *FEIR* at 2-117. The new RPZ will even include a “5-story office building.” *Id.* at 2-110.

The North Airfield Improvements are inconsistent with the ALUCP. ALUC should have had an opportunity to review the North Airfield Improvements prior to them being approved by the Los Angeles City Council.

IV. **Conclusion.**

ALUC should uphold staff recommendation to uphold the Appeal. The Los Angeles City Council’s decision to certify the *FEIR* and adopt the Staff-Recommended Alternative is inconsistent with the State Aeronautics Act, Cal. Pub. Util. Code § 21001 *et seq.*, as LAWA failed to submit the North Airfield Improvements prior to final approval. LAWA’s omission of the North Airfield Improvements in its application to ALUC is significant as the airfield project is inconsistent with the ALUCP. ALUC should act, as it did in 2004, and find the North Airfield Improvements inconsistent with the ALUCP.

Sincerely,



Mitchell M. Tsai

Attorneys for

SEIU United Service Workers West